

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 18-cv-10737-PBS

MARILYN BARRESI, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
STEPHANIE MCMAHON

Plaintiff,

v.

CITY OF BOSTON

Defendant.

**DEFENDANT CITY OF BOSTON'S MOTION TO DISMISS PLAINTIFF'S SECOND
AMENDED COMPLAINT
[ECF NO. 41]¹**

The Defendant, City of Boston ("City"), hereby moves this Honorable Court pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss Plaintiff's Second Amended Complaint in its entirety for its failure to state a claim upon which relief can be granted.

In essence, Plaintiff seeks to hold the City responsible for the decedent's death. According to Plaintiff's Second Amended Complaint, the decedent, Stephanie McMahon, was killed by Randall Tremblay, a man against whom she had a restraining order. Plaintiff alleges that the City is responsible for Ms. McMahon's death because it did not arrest Tremblay when it had the opportunity to do so.

Plaintiff asserts thirteen claims against the City: a wrongful death claim under G. L. c. 229 (Count I); a "conscious pain and suffering" claim under G. L. c. 229 (Count II); a negligence

¹ Though Plaintiff labels ECF No. 41 as her "Amended Complaint" it is actually her Second Amended Complaint.